

# **Reorganizing to Meet the Homeland Security Challenges of 2010**

**A Monograph  
by  
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## **Abstract**

Reorganizing to Meet the Homeland Security Challenges of 2010 by MAJ Stephen A. Letcher, U.S. Army, 39 pages.

When President George W. Bush created the Department of Homeland Security, he also approved a new Unified Command Plan and established Northern Command. The question was whether these new organizations are needed, or can increased funding for existing programs accomplish the same goal? Critics argued that Department of Homeland Security will only serve to confuse emergency efforts by creating yet another layer of bureaucracy in an already functioning system. Critics of Northern Command from the American Civil Liberties Union say its creation will allow US Forces to gather intelligence on citizens within the United States.

The homeland security reorganization has three elements. First is the creation of the Department of Homeland Defense. Second is the realignment of 22 federal agencies underneath this vast office. Third is the change in the Unified Command Plan and the creation of Northern Command. To understand if this reorganization was necessary, a thorough threat analysis was conducted. The focus of the threat estimate was on past events, current capabilities, and predicted future capabilities. This served as a model of increasing terrorist activity within the United States. Next, to determine whether FEMA responded effectively to the threat, the study examined FEMA's incident management functions, particularly in consequence management. FEMA's capabilities were compared to the Homeland Security Task Force's requirements for homeland security in a post 11 September 01 environment. Lastly, the study reviewed existing legislation to determine whether the grants of authority to military forces operating in the United States are consistent with a contemporary understanding of civil liberties.

Consequently, it was found that the creation of the Department of Homeland Security and Northern Command were required to bring order to a complex system and provide the military with a command and control element, respectively. Additionally, the standing legislation that defines military operations in the continental United States should remain unchanged, while legislation authorizing government agencies to monitor civilian activities must maintain a balance between domestic security and personal privacy. This study recommends improvements in the Homeland Security Structure focusing on intelligence.

## TABLE OF CONTENTS

TABLE OF CONTENTS .....	iv
LIST OF FIGURES .....	iv
INTRODUCTION .....	1
DOMESTIC SECURITY .....	5
FEMA & THE DEPARTMENT OF DEFENSE .....	8
Federal Involvement .....	12
THE NEW PARADIGM .....	16
The Military Role .....	19
EMPLOYMENT OF MILITARY FORCE IN THE UNITED STATES .....	23
Authority Granted by Key Legislation .....	25
Impact of Legislation .....	26
CONCLUSIONS and RECOMMENDATIONS .....	29
Research Shortfalls .....	31
Recommendations .....	31
Closing Thoughts .....	33
GLOSSARY .....	34
BIBLIOGRAPHY .....	36

## LIST OF FIGURES

<a href="#"><u>Figure 1 Death Rates From Terrorism</u></a> .....	7
<a href="#"><u>Figure 2 Federal Emergency Management Agency</u></a> .....	9
<a href="#"><u>Figure 3 FEMA Regional Offices</u></a> .....	10
<a href="#"><u>Figure 4 Incident Command System/Unified Command</u></a> .....	12
<a href="#"><u>Figure 5 Department of Homeland Security Organizational Structure</u></a> .....	17

***.” The Department of Defense really has two roles to play in providing for the security of the American people where they live and work. The first is to provide forces to conduct those traditional military missions under extraordinary circumstances. The second is to support the broader efforts of the federal domestic departments and agencies and indeed the state and local government(s) ”<sup>1</sup>***

THE HONORABLE DONALD RUMSFELD

## CHAPTER ONE

# INTRODUCTION

Historically, the United States government has reorganized in response to crisis.

Reorganization is often necessary to increase the effectiveness of government in dealing with new issues or pressing needs. Terrorist attacks on 11 September spawned political debate over how best to protect the American infrastructure and its citizens. From these debates came two options: strengthen the existing federal agencies that support incident management functions or create a cabinet level organization that would unify the existing agencies under one structure. Many felt the current agencies should be strengthened rather than reorganized. There was a concern that the new organization was being created because of a perceived, not confirmed, vulnerability in our nations ability to respond to terrorist attacks. Consequently, the resources and effort that would go into the reorganization would potentially be unnecessary.

The President, George W. Bush, and Senator Tom Ridge also initially resisted the idea of a new department, believing that the reorganizing of the existing agencies was adequate to address the threat<sup>2</sup>. However, after sometime, both embraced the concept and moved forward with the proposal. President Bush said the department will reduce America's vulnerabilities and help the country respond better to any future terrorist attacks. After months of congressional debate, the President proposed the creation of the Department of Homeland Security and Northern Command because of the perceived weakness in domestic security. Although numerous

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<sup>1</sup> Donald H. Rumsfeld, “Town Hall Meeting” speech delivered at Prince Sultan Air Base, Al Kharj, Saudi Arabia, 29 April 2003.

<sup>2</sup> Rothman, Paul. “President seeks Cabinet-level department by year-end.” *Government Security*, 23 July 2002 available at [http://govtsecurity.securitysolutions.com/ar/security\\_president\\_seeks\\_cabinetlevel](http://govtsecurity.securitysolutions.com/ar/security_president_seeks_cabinetlevel).

federal, state, and local entities were already dealing with the threat of terrorism in the United States, no single agency was responsible for domestic security. This major reorganizing effort would have three elements: First, the creation of the Department of Homeland Security; second, the reorganization of federal agencies underneath the Department of Homeland Security; and third, the creation of Northern Command with an area of responsibility (AOR) covering most of North America.

The creation of the Department of Homeland Security evoked strong criticisms from politicians. Senator Jim Jeffords said creating another cabinet level office would only divert resources from the fight against terrorism and "give the American people a false sense of security."<sup>3</sup> Joyce Howard Price stated that a top republican figure called this new organization, "an inadequate response to intelligence failures."<sup>4</sup> Senator Edward Shelby echoed that statement in saying that, "the president's proposal does not address the security problems we have."<sup>5</sup> Additionally, critics of the new Homeland Security Department said these organizations created an overlap in responsibilities, as employees are reassigned from 22 existing agencies into the new department.

When President Bush signed the statute creating the Department of Homeland Security, he also approved a new Unified Command Plan (UCP). That new UCP enabled the establishment of U.S. Northern Command with an assigned area of responsibility over North America. These new organizations were expected to streamline how the United States accomplishes incident management, in particular the "consequence management" tasks as described in the Federal Response Plan.

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<sup>3</sup> "Bush Signs Homeland Security Bill into Law" In *Its Americas News*, 25 November 2002, available from <http://www.itsa.org/ITSNEWS.NSF/4e0650bef6193b3e852562350056a3a7/955ab3c6053866e985256c7d00683517?OpenDocument>

<sup>4</sup>Howard Price, Joyce, "Senate Critics Find Homeland Security Plans Lacking" *The Washington Times*, 10 June 2002.

<sup>5</sup> Ibid.

The creation of Northern Command was not without its critics as well. Richard Schmeltz contended that merging North American Aerospace Defense Command (NORAD) and Space Command will, “create problems since the two commands have distinct cultures that will be difficult to mesh, even though much of the space operations will remain in Colorado.”<sup>6</sup> Additionally Mr. Schmeltz indicated that, “senior military officers have expressed concern about how the new command will coordinate with NORAD on crucial issues of domestic defense.”<sup>7</sup>

Additional criticism was raised by the American Civil Liberties Union (ACLU), which has also voiced strong opposition to the creation of Northern Command. In an interview with General Ralph Eberhart, Dan Sagalyn poses the questions regarding the task American service men and women will perform in this new organization. Sagalyn specifically recounts issues raised by the American Civil Liberties Union. Dr. Sagalyn noted that critics representing the American Civil Liberties Union complained that, “during the 50s and 60s Department of Defense personnel spied on anti-war protestors, and used that information for political purposes that were politically motivated.”<sup>8</sup> The critics from the ACLU are concerned about a reoccurrence of that incident through the creation of this organization.

Assessing the necessity of this reorganization required an analysis of the terrorist threat to the United States. Understanding this threat was the cornerstone in determining if this major reorganization was required, or if the existing structure could effectively meet that threat. The assessment took into consideration the past, present, and future asymmetrical threats that if employed would affect the domestic security of the citizens in the United States.

Next, it was necessary to ascertain how the Federal Emergency Management Agency (FEMA) was originally organized to respond to asymmetrical threats and consequence

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<sup>6</sup> Schmitt, Eric, “New Command Would Meld Missile Defense and Offense,” 25 June 2002, available from [http://www.nukewatch.org/media/more\\_media/06-00-02/06-10-02/missileMeld.html](http://www.nukewatch.org/media/more_media/06-00-02/06-10-02/missileMeld.html).

<sup>7</sup> Ibid.

management incidents. This assessment also exposed the gaps in the Federal Response Plan, as the plan existed before 11 September. The FEMA analysis served as a baseline that directly linked the current reorganization effort within the Department of Homeland Security and the Department of Defense. Although both organizations are scheduled to be at full operating potential in 2004 some general assumptions about capability had to be introduced in order to complete the study.

The analysis led to the conclusion that the Department of Homeland Security was required to bring order to a complex system. The analysis also found that the creation of Northern Command provided the military with a command and control element responsible for North America, allowing for better coordination between the DoD and its civil support requirements. Finally, the standing legislation that authorizes military operations in the continental United States should remain unchanged while legislation authorizing government agencies to monitor activities maintain a balance between domestic security and personal privacy.

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<sup>8</sup> Eberhart, Ralph General. "A Conversation with General Ralph Eberhart" Interview by Dan Sagalyn, *On Line News Hour*, 24 September 2002, taken from the World Wide Web at <http://www.pbs.org/newshour/terrorism/ata/eberhart.html>.



## CHAPTER TWO

### DOMESTIC SECURITY

The threat to national security posed by terrorism constitutes the standard for measuring both existing organizations and the newly created replacement. Terrorism, according to *Black's Law Dictionary*,<sup>9</sup> is an activity that involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State. The citizens in the United States have enjoyed the isolation and protection of the Atlantic and Pacific Oceans for so long that when violence from abroad is brought to the "Heartland," people are horrified. Even during the height of World War II, the closest the Axis powers came to bringing the war to American shores were some ineffective Japanese rice-paper balloon bombs carried by the Trade Winds to the US West Coast.

Around the globe, there are hundreds of asymmetrical terrorist threats that, if employed in the United States, would strain local resources. The Aum Shinrikiyo attacks in Japan targeted innocent civilians in an effort to exact "revenge" or make a political statement.<sup>10</sup> The first attack occurred in Matsumoto on June 27, 1994, the day of a real-estate judgment against the cult. A truck in a parking lot released sarin gas that killed seven people and made 500 others sick. The second, more famous episode, took place at 8:00 a.m. on March 20, 1995 when sarin gas was released on 5 trains, which were traveling toward Kasumigaseki, the section of Tokyo that houses the headquarters for most of the government. All told, 12 people were killed, 3,796 were injured, and approximately 1,000 were hospitalized.

Steady increases in terrorist attacks have spawned slow change in domestic policy. In 1995, the Murrah Federal Building in downtown Oklahoma City was bombed. That unexpected

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<sup>9</sup> *Black's Law Dictionary*. (1990). St. Paul: West Publishing Co.

emergency stressed the emergency preparedness system of that city. Two years earlier, the World Trade Center was the target of a terrorist attack. Unknown at the time, however, was that the terrorists had intended to bring down both of the primary World Trade Center buildings in a cloud of cyanide gas designed to kill thousands of people. The effects of that 1993 bombing influenced U.S. foreign policy until September 11, 2001, when the link between terrorism and foreign and domestic policy became inextricably established.

The aforementioned attacks, along with those in other countries supportive of Western interests indicates that terrorists have transitioned to “softer” targets requiring fewer troops or resources. However, with the vast array of chemical, biological, and nuclear weapons available (particularly in view of the collapse of the Soviet Union), there is an increased opportunity for terrorists to conduct operations in the United States and its allies. Terrorism expert Dr. Jessica Stern states, “A terrorist attack using chemical or biological weapons would be far easier to accomplish, and could be equally devastating to public confidence and civil liberties.”<sup>11</sup> Dr. Stern emphasized that in the near future; terrorism will be low-tech, domestic, and biological. Stern’s analysis of impending threat concluded that post-Cold War nuclear threat has been replaced by the less costly, more likely threat of terrorist attacks using weapons of mass destruction. Dr. Stern stressed that several factors contribute to the increased likelihood of a major incident. First is the emergence of a new breed of terrorists, consisting of violent right-wing extremists, apocalyptic groups, and millenarian cults. These groups present a significant threat, are less constrained than their predecessors by traditional ethics or political pressures, and are better able to recruiting scientists. Additionally, Dr. Stern warned of the risks presented by the “weak states” and “atomized societies” left in the Cold War’s wake, including danger presented by the theft and smuggling of nuclear and chemical materials from former Soviet facilities. The storage and

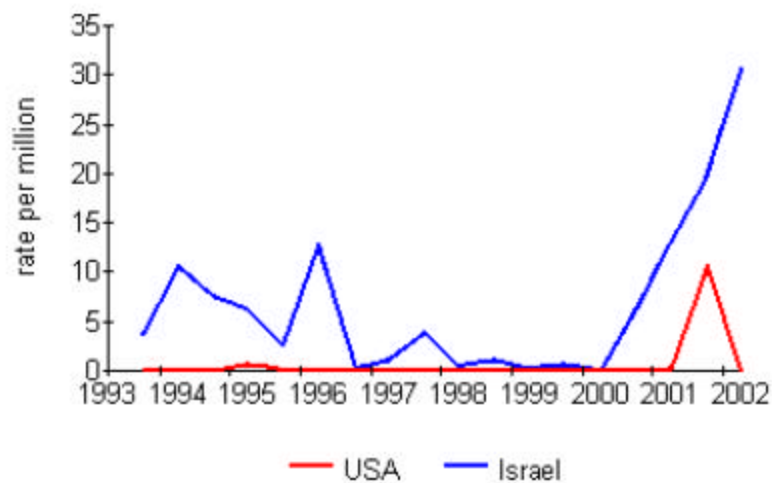
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<sup>10</sup> Lifton, Robert Jay. *Destroying the world to save it: Aum Shinrikyo, apocalyptic violence, and the new global terrorism*. New York, N.Y., U.S.A.: Henry Holt and Co.

<sup>11</sup> Stern, J. “*The Ultimate Terrorists*.” London: Harvard University Press, 1999.p. 3

security of nuclear materials in these newly, independent countries are also a source of continuing concern among the international community.

The world has changed. Threats to U.S. and international security are on the rise. While the Soviet Union has collapsed and former Warsaw Pact countries are becoming America's NATO allies, Islamic-sponsored terrorists and others from around the world continue to attack Americans and their interests at home and abroad. Figure 1 below compares US and Israeli fatalities from terrorism per million populations from 1993-2002. These figures include only fatalities from domestic attacks and clearly indicate that the threat from terrorist organizations has increased.<sup>12</sup>



**Figure 1 Death Rates From Terrorism**

Consequently, the outcome of the religious fervor today has been an escalation in violence through terrorism.

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<sup>12</sup> Sloan, Mark. "Death Rates from Terrorism." *Terrorism, Counter terrorism, and Unconventional Warfare* 2002, available from <http://www.johnstonsarchive.net/terrorism/>

## CHAPTER THREE

### FEMA & THE DEPARTMENT OF DEFENSE

Although terrorism represents a new and substantial threat to the United States, it remains to be determined whether the Federal Emergency Management Authority needs to be reorganized in response to the threat. Possibly, FEMA was already adequately organized and resourced to meet the projected needs. Until creation of the Homeland Security Agency, FEMA was an independent federal agency with more than 2,600 full time employees. Those employees worked at FEMA headquarters, at regional and area offices across the country, at the Mount Weather Emergency Operations Center, and at the FEMA training center. FEMA also had nearly 4,000 disaster assistance employees that were available to help after disasters. In many instances, FEMA worked in partnership with other organizations that are part of the nation's emergency management system. These partners included state and local emergency management agencies, 27 federal agencies and American Red Cross. FEMA's organizational website at <http://www.fema.gov/> says that FEMA's organizational structure mirrored the functions that take place in the life cycle of emergency management: mitigation, preparedness, and response and recovery. Generally speaking, FEMA's other responsibilities include:<sup>13</sup>

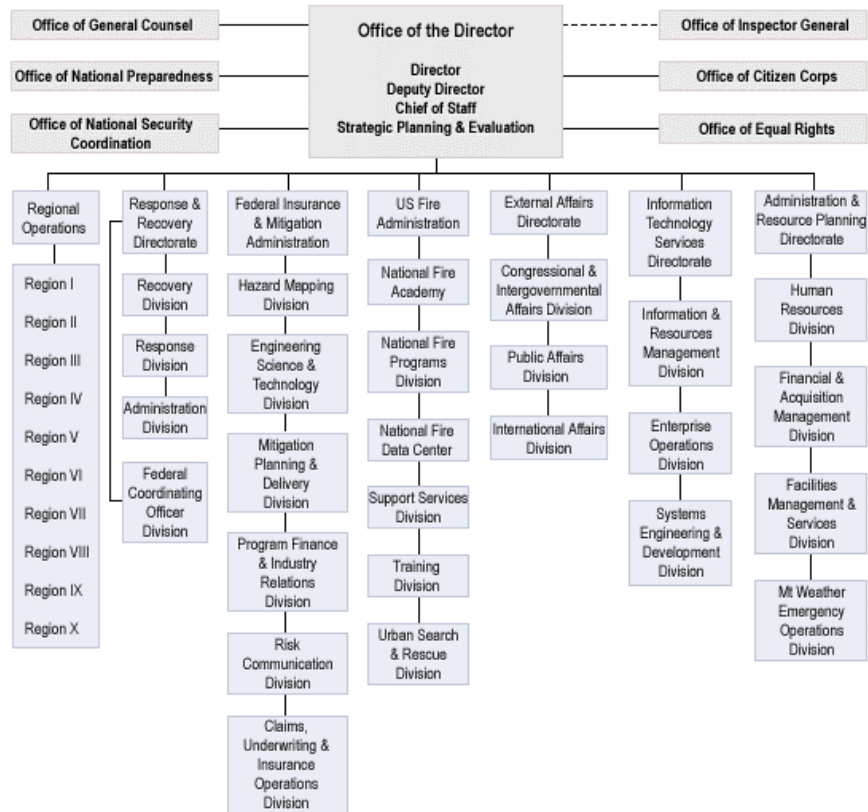
- Advising on building codes and flood plain management
- Teaching people how to get through a disaster
- Helping equip local and state emergency preparedness
- Coordinating the federal response to a disaster
- Making disaster assistance available to states, communities, businesses and individuals, training emergency managers
- Supporting the nation's fire service
- Administering the national flood and crime insurance programs

Coordination across FEMA's numerous branches is difficult but manageable. FEMA's

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<sup>13</sup> Executive Order 12656, "Assignment of Emergency Preparedness Responsibilities," 18 November 1988.

organizational chart, Figure 2 below, illustrates the complexity of the organization before 11 September.



**Figure 2 Federal Emergency Management Agency**

Additionally, FEMA operates across a loosely connected network of regional offices, depicted in Figure 3 below. Those ten regions, which operate somewhat independently, make managing and cross-coordinating consequence management tasks complicated.



**Figure 3 FEMA Regional Offices**

In their Concept of Operations Plan, FEMA states that state and local consequence management organizations are generally structured to respond to an incident scene using a modular, functionally oriented Incident Command System (ICS) that can be tailored to the kind, size and management needs of the incident. ICS was designed to organize and unify multiple disciplines with multi-jurisdictional responsibilities on-scene under one functional organization. State and local emergency operations plans generally establish direction and control procedures for their agencies' response to disaster situations. The organization's staff is constructed from a "top-down" approach with responsibility and authority placed initially on an incident commander, determines which local resources will be deployed. In many states, local law will identify the person responsible for serving as the incident commander; and in most instances, the incident commander will come from the state or local organization that has responsibility for managing the emergency.<sup>14</sup>

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<sup>14</sup> FEMA, *Federal Response Plan*, Washington, D.C., April 1999b, available from <http://www.fema.gov/r-n-r/frp/frpfull.pdf>.

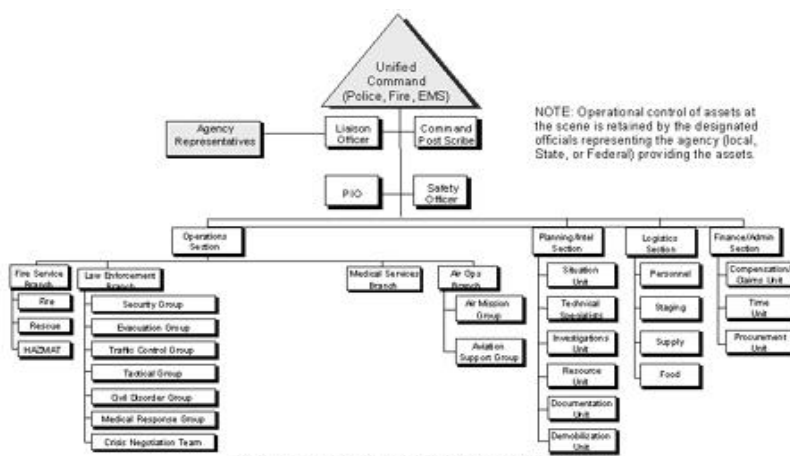
When the scale of a crisis exceeds the capabilities and resources of the local incident commander, or multiple jurisdictions become involved in order to resolve the crisis, the ICS command function can grow into a Unified Command (see Figure 3 below). Under Unified Command, a multi-agency command post is established incorporating officials from agencies with jurisdictional responsibility at the incident scene. Multiple agency resources and personnel will then be integrated into the ICS as the Unified Command post. Overall, requests for support are filled at the lowest level while requests that go beyond low-level capabilities are forwarded until filled.

State assistance may be provided to local governments that respond to a terrorist threat or that are recovering from the consequences of a terrorist incident. The governor has full authority to implement all powers associated with the operational control of the State's emergency services during a declared emergency. State agencies are responsible for ensuring that essential services and resources are available to the local authorities and the incident commander when requested. When State assistance is provided, the local government retains overall responsibility for command and control of the emergency operations, except in cases where State or Federal statutes transfer authority to a specific State or Federal agency. State and local governments have primary responsibility for consequence management. FEMA, using the Federal Response Plan (FRP), directs and coordinates all federal response efforts to manage the consequences in domestic incidents, for which the President has declared, or has expressed his intent to declare, an emergency.<sup>15</sup> Figure 4 below is the existing organizational chart for the Unified Command.<sup>16</sup>

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<sup>15</sup> FEMA, "United States Government Interagency Domestic Terrorism Concept of the Operations Plan" 2003, available from <http://www.fema.gov/pdf/rrr/conplan/conplan.pdf>.

<sup>16</sup> Ibid.



**Figure 4 Incident Command System/Unified Command**

## Federal Involvement

FEMA's "Concept of Operations Plan" describes how the general response to an incident should unfold. The Lead Federal Agency (LFA), in coordination with the lead agencies for crisis and consequence management response, state and local officials, alert, assemble, and deploy federal resources in response to an act of terrorism. The LFA manages operations until the threat or crisis diminishes and control can be returned to local officials.<sup>17</sup> The threat level of an incident determines whether federal agencies are required to employ suitable response measures.

Confusion between state and federal FEMA elements existed in the pre 11 September design. Under the newly revised system, the Department of Homeland Security mandated that state and local government comply with federal guidelines. The Department of Homeland Security will also have the capability to provide federal oversight to state programs. FEMA's document "Phasing of the Federal Response," indicated that once the FBI confirms a threat is credible or an attack has already occurred, the FBI headquarters (FBIHQ) will initiate

<sup>17</sup> Executive Order 12657, "Federal Emergency Management Agency Assistance in Emergency Preparedness Planning at Commercial Federal Emergency Management Agency, "Continuity of the Executive Branch of the Federal Government at the Headquarters Level during National Security Emergencies", *Federal Preparedness Circular 60*, November 20, 1990.



coordination with other federal agencies to activate the operations network and to consolidate the appropriate liaisons at the Strategic Information Operations Center (SIOC).

In contrast to FEMA's consequence management responsibilities, the FBI is the lead federal agency responsible for crisis management. The FBI manages crises from its own command post, or JOC (Joint Operations Center), which allows them to control resources needed in order to diminish those threats. The FBI Special Agent in Charge (SAC) of the local field division establishes a command post to manage a threat based upon a graduated response. This command post structure demonstrates flexibility by mobilizing only what is needed to contend with each individual threat.

When the threat is beyond the capabilities of the FBI element, additional assistance is obtained from the FBI's Critical Incident Response Group. In a terrorist threat that could possibly involve weapons of mass destruction, the traditional FBI command post expands into a Joint Operations Center by adding the Consequence Management Group.<sup>18</sup>

If all of the aforementioned steps to end a particular threat fail, then the Attorney General may request DoD assistance in crisis management. The request is sent from the Attorney General through the Secretary of Defense. Once the Secretary has approved the request, the order will be transmitted either directly or through the Chairman of the Joint Chiefs of Staff to the unit involved.

To illustrate the past consequence management system, an in depth examination of FEMA's handling of the 11 September 01 attack on the World Trade Center is necessary. An extrapolation of the lessons learned from that analysis facilitated the understanding of how the reorganizing further enhances the Department of Homeland Security's ability to respond.

After the second plane hit the second tower, New York City started the Disaster Response Cycle. The local emergency management office contacted the local police, fire

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<sup>18</sup> United States Government, "Interagency Domestic Terrorism Concept of the Operations Plan 2003," available at <http://www.fema.gov/pdf/rrr/conplan/conplan.pdf>.

fighters, and medical personnel. FEMA estimated that some 35,000 off duty police officers were called in. Additionally Fire and Emergency Medical Services (EMS) Mutual Aid Plans were activated. This activation required the New York City Fire Department to recall all available fire fighters estimated somewhere between eight to ten thousands workers. Within the EMS plan was additional support from New Jersey se EMS units' transported injured citizens to New Jersey via ambulances and waterway taxis.

At the state level, the Governor declared a state of Emergency and the New York State Emergency Management Office (SEMO) was activated. At that point, New York State's Emergency Response Plan was implemented and liaisons from all state agencies and volunteer agencies were deployed. Additionally, National Guardsmen were deployed to lower Manhattan to assist in the effort. The Governor also contacted the President and requested Federal assistance. At the federal level, the President directed the FEMA Director, Joe Allbaugh to activate the Federal Response Plan (FRP). That plan required FEMA Region II to deploy an Emergency Response Team-Advance Element. During that process, FEMA Region I, located in Boston, coordinated the event until the FEMA Region II Interim Operation Facility (IOF) established communication capabilities. Additionally all 12 Emergency Support Functions were activated and told to report to the IOF. Finally, the Federal Aviation Administration initially closed all New York City airports, and within a few hours stopped all air traffic in the United States. No federal ground forces were tasked to deploy to the area.

The Region I emergency response team operating in the Federal Coordination Office had four initial priorities: to bring life saving support to the affected area, establish a mobilization center, restore vital infrastructure and critical facilities, and develop a force protection plan to include the support of the workers working the disaster. This team did this by bringing in nineteen Federal Response Teams and a host of other volunteer organizations.

What FEMA learned from this event can be sorted into three categories: the need for urgency, a need for information sharing, and the need for force packaging. Adherence to those

fundamentals could have improved FEMA's ability to respond to disasters at the federal level. Unfortunately, FEMA was not organized to accomplish those tasks.

Command and control of units and agencies responding to a terrorist threat or incident is a critical function that demands a unified framework for the preparation and execution of plans and orders. Additionally, management of federal, state, and local actions must be inherently flexible to effectively coordinate the entire spectrum of capabilities and resources across the United States. Because emergency response organizations at all levels of government manage command and control activities somewhat differently, depending on the organization's history, the complexity of the crisis, and their capabilities, the resulting challenge became the integration of different types of management systems and approaches utilized by FEMA, the FBI, and DoD.

***“Our job will be to preserve the Nation’s security by defending the American people where they live and work, and support civilian authorities as needed. We will also prepare for the inevitability of uncertainty and surprise. This will be a team effort from start to finish--our servicemen and women are ready for the challenge.”***

*- General Ralph “Ed” Eberhart, Commander,  
U.S. Northern Command*

## CHAPTER FOUR

### THE NEW PARADIGM

After considering the challenges involved in collating federal government efforts (FEMA, FBI, and DoD), it was deduced that a coordinating structure was necessary to enable a unified response to a threat toward domestic security. Henceforth, a Homeland Security Task Force was assembled. That task force compiled a prioritized list of requirements for protecting the nation's infrastructure, improving intelligence and law enforcement, conducting military operations to combat terrorism, and strengthening civil defense.<sup>19</sup> The results of that Task Force laid the groundwork for the establishment of the Department of Homeland Security. The Department of Homeland Security was then charged with “detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States.”<sup>20</sup>

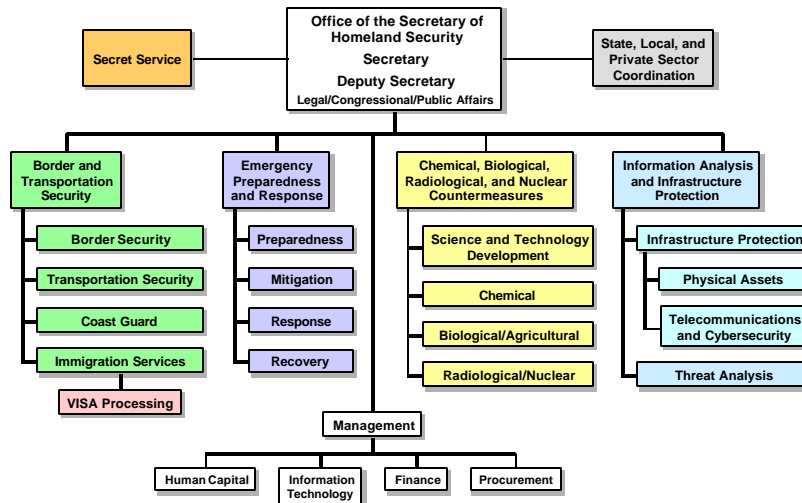
As illustrated in Figure 5, the Department of Homeland Security combines twenty two agencies into four divisions: Science and Technology, Information Analysis and Infrastructure Protection, Border and Transportation Security, and Emergency Preparedness and Response.<sup>21</sup>

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<sup>19</sup> Bremer, L. Paul 3rd and others, “Defending the American Homeland: A Report of The Heritage Foundation Homeland Security Task Force” *Heritage Foundation*, 2002.

<sup>20</sup> Department of Homeland Security. 2003. Available: <http://www.dhs.gov/dhspublic/>— Oct 7, 2002.

<sup>21</sup> Ibid.



**Figure 5 Department of Homeland Security Organizational Structure**

Additionally, the Department of Homeland Security coordinated the counter-terrorist efforts of more than 40 federal agencies as well as state and local bodies.

Creation of the Department of Homeland Security ushered in a critical change in the management of federal response plans. During the 11 September attack, numerous plans were activated. At critical points, some plans had conflicting missions, since no single office was responsible for ensuring that the plans were feasible, acceptable, and supportable. Under the Department of Homeland Security, these separate plans are currently being combined into one plan: the “Federal Incident Management Plan.”

The second element in the creation of the Department of Homeland Security was to absorb FEMA into the “Emergency Preparedness and Response Office” Under this new office, FEMA remains responsible for preparedness, mitigation, response, and recovery. Additionally, FEMA will direct one of four Federal teams to respond to chemical and biological attacks, as well as coordinate with the Metropolitan Medical Response System.

Third, the Department of Homeland Security has been charged to oversee Domestic Security and provide pertinent information to the citizens of the United States through the newly developed Emergency Preparedness and Response Department. The Emergency Preparedness

and Response Department has six functions. The functions include ensuring the effectiveness of emergency response providers, overseeing of the nuclear incident response team, providing the federal government's response to terrorist attacks and major disasters, and aiding recovery from terrorist attacks and major disasters. In addition to these, the Department of Homeland Security will also be responsible for building a National Incident Management System, as well as consolidating the federal response plans as described earlier.

Fourth, Congress acted by passing a range of legislation including the Patriot Act. Signed into law on 26 October 2001, this Act encompasses four areas. First, this Act updated federal criminal laws that enable the government to obtain and store voice mail and computer service records. Second, it interceded in money laundering, requiring federal institutions to verify the identities of all persons opening accounts. Next, it allowed for the detention of suspected terrorists at borders as well as aliens. Additionally it permitted the government to provide visa records to foreign governments and to share criminal records. Finally, a provision of this act grants an aid package to state and local governments to help fund state and local government anti-terrorism programs.

Critics argue that elements within the Patriot Act erode American civil liberties and cite the war against terrorism as the rationale. Opponents object to legislation passed by Congress that allows the government access to sensitive information pertaining to United States citizens. Additionally, critics suggest that if these invasions of privacy are allowed, then the terrorists have succeeded in changing the behavior of Americans.

Finally, the Department of Homeland Security created a national alert system. According to the Director of Homeland Security, Secretary Tom Ridge, the Homeland Security Advisory System (HSAS) provides a comprehensive and effective means to disseminate information regarding the risk of terrorist attacks to federal, state, and local authorities, as well as the

American people.<sup>22</sup> President Bush signed the Homeland Security Presidential Directive, creating the Homeland Security Advisory System as part of a series of initiatives to improve coordination and communication among all levels of government and the American public in the fight against terrorism. “The advisory system is the foundation for building a comprehensive and effective communications structure for the dissemination of information regarding the risk of terrorist attacks to all levels of government and the American people.”<sup>23</sup> The advisory system is one element that will further the exchange of information between government agencies.

### **The Military Role**

With the creation of the Department of Homeland Security, the Department of Defense then had a specific agency with which to coordinate civil support efforts. On 1 October 2002, the Department of Defense established U.S. Northern Command (NORTHCOM) to provide command and control for DoD homeland defense efforts and to coordinate military support to civil authorities. The stated mission of the NORTHCOM is:

Conduct operations to deter, prevent, and defeat threats of aggression aimed at the United States, its territories and interests within the assigned area of responsibility (AOR); and as directed by the President or Secretary of Defense, provide military assistance to civil authorities including consequence management operations.<sup>24</sup>

The commander of Northern Command is responsible for homeland defense. Subordinate to the U.S. Northern Command are the commanders of the North American Aerospace Defense Command and U.S. Space Command. Northern Command will provide civil support not only in response to terrorist attacks, but also to natural disasters. Additionally, the command is tasked with defense planning and security cooperation for other nations in its area of responsibility, which includes air, land and sea approaches to the United States and the continental United

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<sup>22</sup> Ridge, Tom. “Homeland Security Advisory System.” *Presidents & Prime Ministers*, Vol. 11, Issue 1.

<sup>23</sup> Ridge, 2002, p. 36

States, Alaska, Canada, Mexico, and the surrounding water out to approximately 500 nautical miles. The Area of Responsibility also includes the Gulf of Mexico, Puerto Rico, and the U.S. Virgin Islands. The defense of Hawaii and U.S. territories and possessions in the Pacific remain the responsibility of U.S. Pacific Command.”<sup>25</sup>

Northern Command is responsible for consolidating existing missions that were previously executed by other DoD organizations in order to provide essential continuity and unity of command. Other critical responsibilities include planning, organizing and executing homeland defense and civil support missions; however, Northern Command has few permanently assigned forces but will attempt to maintain adequate flexibility by receiving and assigning forces whenever necessary to execute missions directed by the President and Secretary of Defense.

The command provides assistance to a lead federal agency when directed by the Department of Defense. According to the provisions of the Posse Comitatus Act, military forces can provide civil support, but cannot become directly involved in law enforcement. An emergency must exceed the capabilities of local, state and federal agencies before NORTHCOM becomes involved. In most cases, support will be limited, localized and specific. When the scope of the disaster has been reduced to the point that the lead federal agency can again assume full control and management without military assistance, NORTHCOM will exit, leaving the on-scene experts to complete what ever tasks are necessary to restore the effected area to pre-crisis conditions.

“In providing civil support, NORTHCOM operates through a subordinate Joint Task Forces.”<sup>26</sup> Joint Task Force Civil Support (JTF-CS) was activated on 1 October 1999. This subordinate Joint Task Force ensures that the generally the military is the last to arrive and the first to leave. The JTF-CS’s mission:

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<sup>24</sup> “U.S. Northern Command Fact Sheet (2003).” *Northern Command*. Available at <http://www.northcom.mil/>.

<sup>25</sup> Ibid.



To provide command and control for Department of Defense (DoD) forces deployed in support of the lead federal agency (LFA) managing the consequences of a chemical, biological, radiological, nuclear or high-yield explosive (CBRNE) incident in the United States, its territories and possessions in order to save lives, prevent injury and provide temporary critical life support.<sup>27</sup>

This mission statement defines the DoD's civil support roll in consequence management.

The additions of the Department of Homeland Security and Northern Command increased the government's ability to respond to terrorist threats. This increased ability was enabled through focused tasks given to both organizations by the Homeland Security Task Force. Those tasks, highlighted in a 2002 report<sup>28</sup>, are the following:

- Build a nationwide surveillance network for early detection of chemical, biological, or other attacks.
- Develop a terrorism response checklist and a manual of civil defense exercises to guide officials in assessing preparedness.
- Accelerate the development of pharmaceuticals that prevent or limit the spread of toxic agents by terrorists.
- Create a national web of CBRN experts will train first response teams for an outbreak or terrorist attack.
- Sign mutual support agreements with Canada and Mexico on responses to terrorist acts in border communities.
- Develop a nationwide education and public relations program.

Focusing on specific tasks gives the Department of Homeland Security and NORTHCOM a strategic vision that will assist in guiding future efforts. NORTHCOM specifically supports the Department of Homeland Security and DoD by providing security for the American people. NORTHCOM will be able to conduct two very simple missions in support of the Department of Homeland Security. "The first is to provide forces to conduct those traditional military missions under extraordinary circumstances. The second is to support the

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<sup>26</sup>Ibid.

<sup>27</sup> "U.S. Northern Command Fact Sheet (2003)." *Northern Command*. Available at <http://www.northcom.mil/>.

<sup>28</sup> Bremer, L. Paul 3rd and others, "Defending the American Homeland: A Report of The Heritage Foundation Homeland Security Task Force" *Heritage Foundation*, 2002.

broader efforts of the federal domestic departments and agencies and indeed the state and local government(s).”<sup>29</sup>

FEMA had neither the resources nor the labor to address the issues raised by the Homeland Security Task Force. FEMA’s focus had largely been at the state and regional levels, which did not address the shortcomings in domestic security. A terrorism response checklist was not considered a national issue because those requirements were passed down to the regional office with very broad guidance.<sup>30</sup> Since FEMA did not have tasking authority, it could only recommend that the Center of Disease Control develop pharmaceuticals that prevent or limit the spread of toxic agents by terrorist. While FEMA did have a training program, it did not have a nation-wide plan to educate the public on ways to better prepare for terrorist attacks.

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<sup>29</sup> Department of Homeland Security, “Epigraph maintained on Homeland Security Website,” 2003, available from <http://www.dhs.gov/dhspublic>.

<sup>30</sup> Federal Response Plan “Notice of Change Number FEMA 229, Chg 11,” *Federal Response Plan* February 7, 1997b, available from [http://www.fas.org/irp/offdocs/pdd\\_39\\_frp0.htm](http://www.fas.org/irp/offdocs/pdd_39_frp0.htm) .

***" As we continue to defend this nation, we also must scrupulously protect the rights and liberties of our citizens."***

- General Ralph "Ed" Eberhart  
Commander, U.S. Northern Command

## CHAPTER FIVE

# EMPLOYMENT OF MILITARY FORCE IN THE UNITED STATES

With the establishment of Northern Command, the Department of Defense assigned, for the first time in US history, a military command responsibility for the continental United States. The new command created some political concern about the assignment of military jurisdiction. Under the U.S. Constitution, there are three types of military jurisdiction:

- 1) General jurisdiction exercised in both peace and war,
- 2) Jurisdiction exercised in time of foreign war outside the boundaries of the United States or in time of rebellion and civil war within states or districts occupied by rebels treated as belligerents; and
- 3) A final jurisdiction to be exercised in time of invasion or insurrection within the limits of the United States or during rebellion within the limits of states maintaining adhesion to the National Government, when the public danger requires its exercise.<sup>31</sup>

Hence, any application of the standing contingency plans under the Homeland Security measures must be in accordance with established constitutional parameters.

The first of these military jurisdictions may be called jurisdiction under "military law" and is found in acts of Congress prescribing rules and articles of war, or otherwise providing for the government of the national forces of the United States. The second of these military jurisdictions may be distinguished as "military government" which supersedes, as far as may be deemed expedient, the local law and is exercised by the military commander under the direction

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<sup>31</sup> "Military Jurisdiction," *Black's Law Dictionary*, p. 993 (1990). St. Paul: West Publishing Co.

of the President, with the express or implied sanction of Congress. The third type of military jurisdiction may be denominated “martial law,” which is called into action by Congress, or temporarily in times of insurrection or invasion, or of civil or foreign war, within districts or localities where ordinary law no longer adequately secures public safety and private rights.<sup>32</sup> These jurisdictions help form that basis of the military framework providing those parameters in which to employ military force.

In his article, “Northern Command chief backs domestic use of US military,” Peter Daniels reports that Air Force General Ralph E. Eberhart, the head of the newly established Northern Command. General Eberhart supports giving greater domestic powers to the military in the Bush administration’s “war on terrorism.”<sup>33</sup> The Northern Command, which began operations October 1, 2002, oversees all military personnel flying patrols over American cities, as well as those patrolling waters up to 500 miles off the U.S. coast. The Posse Comitatus Act generally prohibits the use of military personnel in a law enforcement capacity. However, the Bush administration has called on lawyers in the Justice and Defense Departments to review the Posse Comitatus Act of 1878. The *Posse comitatus*—or “force of the country”—legislation was enacted at the end of the post-Civil War Reconstruction period, when the US military oversaw civil rule in states of the former Confederacy.<sup>34,35</sup> The law has not been fundamentally amended since, and all changes require Congressional approval.

General Eberhart advised the *New York Times*: “My view has been that *Posse comitatus* will constantly be under review as we mature this command, as we do our exercise, as we interact with FEMA [Federal Emergency Management Agency], FBI, and those lead federal agencies out there . . . There are some situations where there’s no other alternatives, and federal forces have to

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<sup>32</sup> “martial law” *Black’s Law Dictionary*. (1990). St. Paul: West Publishing Co..

<sup>33</sup> Daniels, Peter, “Northern Command chief backs domestic use of US military” 23 June 2002, *World Socialist Web Site* available from: <http://www.wsws.org/articles/>.

<sup>34</sup> *Posse comitatus* Fact Sheet. (2002). *U.S. NORTHCOM* Available at: <http://www.northcom.mil/>.

<sup>35</sup> “Posse Comitatus” *Encyclopedia Britannica* Available from <http://www.britannica.com/>.

be used to secure the safety and security of our people.” Among the elements of Bush’s proposals for a new Department of Homeland Security, the potentially most sinister is the reexamination of *posse comitatus*. A review of the 125-year-old law could pave the way for the authorities to easily establish martial law, wiping out basic civil liberties of citizens and non-citizens alike.<sup>36</sup> The Bush administration’s assault on *Posse comitatus* is consistent with its efforts to weaken the core democratic principle of the subordination of the military to civilian authority. Homeland Security head Tom Ridge indicated the administration is seriously discussing efforts to loosen restrictions on the use of military troops on US soil. “I don’t think it’s out of the question.”<sup>37</sup> “We need to be talking about military assets, in anticipation of a crisis event. And clearly, if you’re talking about using the military, then you should have a discussion about Posse Comitatus.”<sup>38</sup>

### **Authority Granted by Key Legislation**

The *posse comitatus* was originally an ancient English institution consisting of the shire's force of able-bodied private citizens summoned to assist in maintaining public order. Black’s advises that a *posse comitatus* represents the “the entire population of a county above the age of fifteen, which a sheriff may summon to his assistance in certain cases, to assist in keeping the peace, in pursuing, and in arresting felons, etc.”<sup>39</sup> Originally raised and commanded by the sheriff, the *posse comitatus* became a purely civil instrument as the office of sheriff later lost its military functions. Periodically, legislation gave authority to other peace officers and magistrates to call upon the power of the county. Although the primary object of the *posse comitatus* was to

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<sup>36</sup> American Civil Liberties Union, “ACLU Says Broad New Anti-Terrorism Measure Could Encroach on Americans’ Rights,” ACLU news release, January 25, 1999, available from <http://www.aclu.org/news/1999/n012599a.html>.

<sup>37</sup> Lindlaw, Scott, “US to Review Ban on Military Police Role,” 22 July 2002, *Trail of Terror Web Site*, available at: [http://www.okcbombing.org/News%20Articles/military\\_police.htm](http://www.okcbombing.org/News%20Articles/military_police.htm)

<sup>38</sup> Ibid.

<sup>39</sup> “Williams v. State” *Black’s Law Dictionary*. 253 Ark. 937, 490 S.W. 2d, 117, 121 (1990). St. Paul: West Publishing Co.

maintain peace and pursue felons under the command of the sheriff, the *posse comitatus* was also required to obey a summons for the military defense of the country.

## Impact of Legislation

The Northern Command fact sheet, “Who We Are – Operating within the Law,” states that the Posse Comitatus Act (PCA) was enacted after the Civil War in response to the perceived misuse of federal troops were charged with domestic law enforcement in the South. “It has come to symbolize the separation of civilian affairs from military influence.”<sup>40</sup> The PCA generally prohibits U.S. military personnel from interdicting vehicles, vessels and aircraft; conducting surveillance, searches, pursuit and seizures; or making arrests on behalf of civilian law enforcement authorities. Prohibiting direct military involvement in law enforcement is in keeping with long-standing U.S. law and policy limiting the military's role in domestic affairs. However, Congress has enacted a number of exceptions to the PCA that allow the military, in certain situations, to assist civilian law enforcement agencies in enforcing the laws of the United States.

In the United States, the *posse comitatus* was perhaps most important on the Western frontier, and had been preserved as an institution in many states. Sheriffs and other peace officers had the authority to summon the power of the county, and in some counties, refusing assistance was a crime. In general, members of a *posse comitatus* are permitted to use force if necessary to achieve legitimate ends, but state laws differ as to the legal liability of one in good faith aids an officer is himself acting beyond his authority. Another use of the *posse comitatus* in the United States was the Posse Comitatus Act of 1878, which was passed at the end of Reconstruction (1865–77) to prevent military enforcement of domestic law in the occupied South. The same act was invoked again in the 1980s to prevent military forces from being deployed against certain domestic threats, such as drug trafficking and terrorism.<sup>41</sup>

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<sup>40</sup> “U.S. Northern Command Fact Sheet (2003).” *Northern Command*. Available at <http://www.northcom.mil/>.

<sup>41</sup> “Posse Comitatus” Encyclopedia Britannica Available from <http://www.britannica.com/>.

Over the last 50 years, the concept of the *posse comitatus* was influential in the United States among political extremists argued that no legitimate authority exists above the level of the county. Political extremists maintained that federal and state governments are unlawful, and therefore, could be lawfully resisted. Inspired by the *posse comitatus*, extremist created their own “common law” courts, which were sometimes used to harass political enemies.<sup>42</sup>

The "Posse Comitatus Act" (PCA), Title 18 of the U.S. Code (USC), Section 1385, states: "Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or Air Force as a *posse comitatus* or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both." The provisions of Department of Defense (DoD) Directive 5525.5 extended the PCA to the U.S. Navy and U.S. Marine Corp. The PCA generally prohibits U.S. military personnel from interdicting vehicles, vessels and aircraft; conducting surveillance, searches, pursuit and seizures; or making arrests on behalf of civilian law enforcement authorities. Prohibiting direct military involvement in law enforcement is in keeping with long-standing U.S. law and policy limiting the military's role in domestic affairs.<sup>43</sup> Nevertheless, over the years, Congress has enacted a number of exceptions to the PCA that allow the military, in certain situations, to assist civilian law enforcement agencies in enforcing the laws of the United States, the most common example of which is counter-drug assistance.<sup>44</sup>

A key statute is the Insurrection Act.<sup>45</sup> This act allows the President to use U.S. military personnel at the request of the State Legislature or Governor to suppress insurrections. The Insurrection Act also allows the President to use federal troops to enforce federal laws when

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<sup>42</sup> “Posse Comitatus ” Encyclopedia Britannica Available from <http://www.britannica.com/>.

<sup>43</sup> Navas, William A. "Posse Comitatus, the Army of the 21st Century and the Law of Unintended Consequences." *National Guard* 53, no. 1 (January 1999): 34.

<sup>44</sup> Title 10 USC Sections 371-382.

<sup>45</sup> Title 10 USC Sections 331-334.

rebellion against the authority of the United States makes it impracticable to enforce the laws of the U.S. Moreover, this act allows for the assistance of state and local agencies in the case of crimes involving nuclear materials.<sup>46</sup> This statute permits Department of Defense personnel to assist the Justice Department in enforcing prohibitions regarding nuclear materials, when the Attorney General and the Secretary of Defense jointly determine that an "emergency situation" exists that poses a serious threat to U.S. interests and is beyond the capability of civilian law enforcement agencies. The Insurrection Act authorizes military involvement when the Attorney General and the Secretary of Defense jointly determine an "emergency situation" exists that poses a serious threat to U.S. interests and is beyond the capability of civilian law enforcement agencies. In those instances, DoD personnel may assist the Justice Department in enforcing prohibitions regarding biological or chemical weapons of mass destruction.<sup>47</sup> Any military support to civilian law enforcement is carried out in strict compliance with the Constitution and U.S. laws and under the direction of the President and Secretary of Defense.<sup>48</sup> Thus, the military remains the last responder.

These numerous laws underscore that military involvement in domestic operations is extremely limited. The laws described above provide the military enough flexibility to carry out its primary functions without becoming involved in police like activities. The military should not be used as a police force and the legislation should not be modified to blur the lines between local and state law enforcement and federal troops. In cases of extreme necessity, the President possesses the necessary power to empower the military with expedient police powers.

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<sup>46</sup> Title 18 USC Section 831.

<sup>47</sup> Title 10 USC Section 382.

<sup>48</sup> Navas, William A. "Posse Comitatus, the Army of the 21st Century and the Law of Unintended Consequences." *National Guard* 53, no. 1 (January 1999): 34.



## **CONCLUSIONS and RECOMMENDATIONS**

Terrorism is the systematic use of violence to create a general climate of fear to bring about a particular political objective. In response to the terrorist attacks of September 11, 2001, the federal government has organized a unified response system that attempts to meet a wide range of requirements arising from natural disasters and emergencies. Biologic, chemical, and nuclear attacks represent an enormous threat to the nation's security today and in the near future. The new organizational framework has become the focus of public attention as well as numerous critics. Nevertheless, it is clear that the creation of Northern Command and the Department of Homeland Security were necessary solutions to this difficult problem. The organizational framework of this unified response system is flexible and has the ability to respond to numerous types of consequence management situations.

Second, under the new structure FEMA will continue to work in partnership with other organizations in the nation's emergency management system. These partners will still include state and local emergency management agencies, 27 federal agencies and the American Red Cross. Additionally, almost 60 federal departments and agencies have some responsibility for homeland security; e.g., FBI, FAA and others. FEMA's role will be limited within the new structure because FEMA will no longer be responsible for coordinating the response to disasters and emergencies. This change will ensure a unity of effort throughout the various organizations.

Next, Northern Command streamlines the military's response to homeland defense. With a direct civil support relationship to the Department of Homeland Security, these agencies will lead the security effort for the next decade. The Northern Command provides military assistance to civil authorities in accordance with U.S. laws and as directed by the President or Secretary of Defense. However, such military assistance is always in support of a lead federal agency, such as the Federal Emergency Management Agency (FEMA). Military civil support includes domestic disaster relief operations in response to fires, hurricanes, floods, and earthquakes. Support also

includes counter-drug operations and consequence management assistance. Generally, an emergency must exceed the management capabilities of local, state and federal agencies before U.S. Northern Command becomes involved.

NORTHCOM provides civil support through a subordinate Joint Task Force and ensures that the military's response is aligned with the requirements outlined by the Homeland Security Office. All of this while U.S. Northern Command manages its area of responsibility including air, land, and sea approaches. Before the creation of Northern Command, the security of what is now NORTHCOM's AOR was the responsibility of numerous agencies. The unifying this effort under one command will prove beneficial in the decades to come.

The Department of Homeland Security is the vehicle that will move these organizations forward and synchronize their efforts. This Department will address the issues raised by Task Force Homeland Defense just as it has already directed the development of a National Response Plan. The Department has begun the training and education of U.S. citizens to quiet the fears of the citizens. The perceived weakness in domestic security is being diminished by the efforts of this agency if only by virtue of its existence.

Finally, the Posse Comitatus Act (PCA) governs the military's use of force on United State's soil. Enacted after the Civil War, this Act governs military force as it "symbolizes the separation of civilian affairs from military influence."<sup>49</sup> In general terms, the PCA prohibits U.S. military personnel from interdicting vehicles, vessels and aircraft; conducting surveillance, searches, pursuit and seizures; or making arrests on behalf of civilian law enforcement authorities. The prohibition of direct military involvement in law enforcement is in keeping with long-standing U.S. law and policy limiting the military's role in domestic affairs. In recent years, though, Congress has enacted a number of exceptions to the Posse Comitatus Act that permit the military, in certain circumstances, to assist civilian law enforcement agencies in enforcing the

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<sup>49</sup> Sherman, Jason. "Supporting Role: When It Comes to Homeland Defense, the Military Knows Its Role Must Be to Assist." *Armed Forces Journal International* 136, no. 12 (July 1999): 10.

laws of the United States.

The aforementioned laws are adequate. No reduction or appeal of the current legislation is required. The division between the military and state and local governments remains, keeping the military from being drawn into domestic issues for which it is not trained, resourced, or prepared to do. However, the President does possess certain powers for which he can employ the military if certain conditions exist.

## **Research Shortfalls**

There is an incredible number of federal, state, and local organizations involved in responding to natural and manmade disasters. There is also a wide range of laws peculiar to how the federal authorities can use military resources in support of civilian law enforcement in these situations. Complicating the entire picture is the complexity of the organizations, with overlapping areas of responsibility and the potential for conflict appearing at every juncture. While precise lines of authority and communication are indeterminable before such an emergency, the structure exists but remains fluid to provide a flexible response to unknown circumstances.

## **Recommendations**

Intelligence is key to the success of the Department of Homeland Security and Northern Command. The Homeland Security Department's Information Analysis and Infrastructure Protection Department must be resourced with all the necessary assets to collect, analyze, and disseminate information in a timely manner. The full capability of the Information Analysis and Infrastructure Protection Department is not yet known. Clearly, this department must have at its disposal raw intelligence and the capability to analyze that intelligence in order to prevent future attacks.

Second, there must be a common database that enables information to be shared between the Department of Homeland Security, the FBI, and the CIA. That database would prioritize

threats. That prioritization would assist in the assignment of responsibilities thus reducing redundancy and increase efficiency by maximizing all the collection resources.

Third, the CIA and the FBI are the primary managers of other collection assets such as human intelligence (HUMINT) and signal intelligence (SIGINT). Both HUMINT and SIGINT must continue to be resourced in order to meet the continue requirement for those intelligence sources. A sub committee report indicated that the current structures of the FBI and CIA lack the ability to adequately assess the information in both these areas because of lack of resources.<sup>50</sup> In order to be effective both the FBI must have adequate resources to include linguist in order to effectively collect and make use of this type of intelligence.

Additionally the lack of resources limits the ability for the Department of Homeland Security, the FBI, and the CIA to take advantage of the Patriot Act. As noted above the Patriot Act provides the Department of Homeland Security a new capability to collect information in order to prevent future attacks. While these provide more access to intelligence sources, none of the agencies has adequate force structures to take advantage of the Patriot Act. Without an increase in either, the FBI's or CIA's analytical capability, the Department of Homeland Security will be unable to take advantage of the gains made by this new act.

Finally, the legislation that prohibits the military from conducting operations against US citizens must remain in place. The legal framework guiding Northern Command prevents the organization from being mired in policing actions best left to local law enforcement. Other legislation such as the Patriot Act must ensure that a balance between the need for security and the idea for the rights to privacy are addressed.

Joint Doctrine focuses on End State and Military Conditions for conflict termination. The intelligence requirements, collection capability, and legislation must be continually readdressed in order to maintain the domestic security at an acceptable level. These

recommendations focus on what the homeland security restructure must deal with in order to be successful in 2010 and beyond.

### **Closing Thoughts**

The world is changing and there are new threats to U.S. national security. The Soviet Union has collapsed and former Warsaw Pact countries are becoming America's NATO allies. However, Islamic-sponsored terrorists and others from around the world continue to attack Americans and their interests at home and abroad. Those responsible for recent attacks have signaled their intent to continue doing so. Notwithstanding the objections by the Islamic press, Americans will continue to inextricably connect the 1.2 billion Islamic people in the world with the future terrorist events as a result of the terrorist attacks in 1993 and 2001.

The importance of The Department of Homeland Security and U.S. Northern Command will not be recognized until 2004 when both organizations reach full operating potential. Therefore, planners in the United States must prepare for a wide range of contingencies in response to possible threats. Unfortunately, humanity has yet to eliminate the terrorist threats to its existence. For that very reason Northern Command and the Department of Homeland Security are needed and must evolve to meet the threats of this millennium.

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<sup>50</sup> Chamblis, Saxby Honorable, "Report of the Subcommittee on Terrorism and Homeland Security" House Permanent Select Committee on Intelligence on Counter terrorism, Intelligence Capabilities and Performance Prior to 9-11, July 2002.

## GLOSSARY

**Biological threat (DoD)** A threat that consists of biological material planned to be deployed to produce casualties in personnel or animals or damage plants. See also biological agent; biological ammunition; biological defense; biological environment; chemical, biological, and radiological operation; contamination; contamination control.

**Civil Support (CS) (DoD)** Support to US civil authorities for domestic emergencies, and for designated law enforcement and other activities.

**Consequence management - (DOD)** Those measures taken to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of a chemical, biological, nuclear, and/or high-yield explosive situation. For domestic consequence management, the primary authority rests with the States to respond and the Federal Government to provide assistance as required. Also called CM. See also nuclear, biological, and chemical defense.

**Critical infrastructure (Patriot Act)** Systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

**DMAT (DoD)** Disaster Medical Assistance Team - is a group of medical and support personnel designed to provide emergency medical care during a disaster or other unusual event. DMATs deploy to disaster sites with adequate supplies and equipment to support themselves for a period of 72 hours while providing medical care at a fixed or temporary medical site.

**Director of Military Support (DOMS) (DoD)** Action agent for planning and executing DOD's Support Mission to civilian authorities within the United States.

**Hazard - (DOD)** A condition with the potential to cause injury, illness, or death of personnel; damage to or loss of equipment or property; or mission degradation.

**Homeland Defense (HLD) (DoD)** The protection of US territory, sovereignty, domestic population, and critical infrastructure against external threats and aggression.

**Homeland Security (HLS) (DoD)** The preparation for, prevention of, deterrence of, preemption of, defense against and response to threats and aggressions directed towards US territory, sovereignty, domestic population, infrastructure; as well as crisis management, consequence management, and other domestic civil support.

**Incident Command System (ICS)** - a part of the National Interagency Incident Management System (NIIMS). ICS provides a comprehensive framework for managing emergency and non-emergency events. Originally created to coordinate firefighting efforts at forest fires, it has been expanded to an all-hazard, all-risk management system.

**Lead Federal Agency (LFA) (FEMA FRP)** LFA is determined by the type of emergency. In general, an LFA establishes operational structures and procedures to assemble and work with agencies providing direct support to the LFA in order to obtain an initial assessment of the situation, develop an action plan, and monitor and update operational priorities. The LFA ensures

that each agency exercises its concurrent and distinct authorities and supports the LFA in carrying out relevant policy. Specific responsibilities of an LFA vary according to the agency's unique statutory authorities.

**Posse Comitatus Act** (DoD) Prohibits search, seizure, or arrest powers to US military personnel. Amended in 1981 under Public Law 97-86 to permit increased Department of Defense support of drug interdiction and other law enforcement activities. (Title 18, "Use of Army and Air Force as Posse Comitatus" - United States Code, Section 1385)

**Terrorism**—(HLD Web) Any premeditated, unlawful act dangerous to human life or public welfare that is intended to intimidate or coerce civilian populations or governments

**Unconventional warfare** UW- (DOD) A broad spectrum of military and paramilitary operations, normally of long duration, predominantly conducted by indigenous or surrogate forces are organized, trained, equipped, supported, and directed in varying degrees by an external source. It includes guerrilla warfare and other direct offensive, low visibility, covert, or clandestine operations, as well as the indirect activities of subversion, sabotage, intelligence activities, and evasion and escape.

**Weapons of mass destruction (WMD)** (DoD) Weapons that are capable of a high order of destruction and/or of being used in such a manner as to destroy large numbers of people. Weapons of mass destruction can be high explosives or nuclear, biological, chemical, and radiological weapons, but exclude the means of transporting or propelling the weapon where such means is a separable and divisible part of the weapon.

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